IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL APPLICATION NO.4087 OF 2004
IN
CRIMINAL APPEAL NO.952 OF 2004

Shrihari Rajlingam Guntuka Applicant

Vs.

State of Maharashtra Respondent

Mr.Nilesh Pawaskar with Ms.Aparna Vhatkar and
Mr.Sayeed Wajid for applicant.

Mr.Bharat Mehta, APP for State.

CORAM: S.S.PARKAR & R.S.MOHITE,JJ.

October 25, 2004.

ORAL ORDER

1. This is the second application made by the convict for his release on bail pending hearing of the appeal filed in this Court. The earlier bail application being Criminal Application No.3448 of 2004 was rejected by us on 17th August 2004. The present application is also made on merits for regular bail pending the hearing of the appeal. However, in view of the earlier rejection of the application for bail on merits on 17th August 2004, the second application for regular bail cannot be granted.

2. Mr.Pawaskar then pressed for release of the

applicant on temporary bail on the ground that his wife is pregnant carrying in her eighth month and is likely to deliver child on 11th November 2004. It is stated in the application as well as in the supporting affidavit dated 14th October 2004 filed by the wife of the applicant that at present the wife is residing temporarily along with her two children aged 5 years and 3 years with the friend of the applicant as she has been removed from her matrimonial house by the relations of the applicant.

3. On behalf of the Respondent-State the APP states that the co-accused who was released on bail during trial is absconding. It is not in dispute that this applicant was also released on bail during trial and he faced trial and surrendered on conviction order was recorded against him.

4. The oral prayer for temporary bail is made on humanitarian grounds as the wife of the applicant is pregnant and is due to deliver next month. She has also to look after two children of tender years of the ages of 5 and 3 and she had to seek shelter in the house of the friend of the applicant. The APP relies on the report of the Police Officer received

by him stating that the police have verified the contents of the application and the affidavit dated 14th October 2004 filed by Mrs.Shirisha Shrihari Guntuka, wife of the applicant and have confirmed that she is at present residing with one Satyanarayana V. Bingi, in B.D.D. Chawl No.108, Room No.36, S.S.Amrutwar Marg, Worli, Mumbai 400 018 and that she is in advanced pregnancy as stated in her affidavit. Considering the aforesaid aspects the applicant can be released on temporary bail on conditions.

5. In the result, though the prayer for regular bail is rejected, the applicant is directed to be released on temporary bail in the sum of Rs.20,000/- with one or two sureties to make up the amount, upto 5th December 2004 on condition that he shall report to N.M.Joshi Marg Police Station twice a week every Monday and Friday between 5 to 7 p.m during bail period. He shall surrender to his bail peremptorily in the morning of 6th December 2004. The applicant on his release on bail shall not leave Bombay city without the written permission of the Sr.P.I. of N.M. Marg Police Station and he shall also inform the said Police Station the address where he will be

residing during the period of bail. If the applicant does not surrender as aforesaid he shall be liable to be arrested and taken into custody on the expiry of the bail period and even earlier for non-compliance of any of the conditions imposed in this order.

6. The application is disposed of accordingly.

(S.S.PARKAR,J.)

(R.S.MOHITE,J.)